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117

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,010	06/25/2001	John J. Giobbi	47079-00046USP2	9971
30223	7590	12/16/2003	EXAMINER	
JENKENS & GILCHRIST, P.C. 225 WEST WASHINGTON SUITE 2600 CHICAGO, IL 60606			CHERUBIN, YVESTE GILBERTE	
		ART UNIT		PAPER NUMBER
		3713		8
DATE MAILED: 12/16/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/891,010	GIOBBI ET AL.	
	Examiner	Art Unit	
	Yveste G. Cherubin	3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 September 2003.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7, 10-22 and 25-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 26-35 is/are allowed.
- 6) Claim(s) 1-7 and 10-22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____.
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) Other: _____

Art Unit: 3713

1. This action is in response to the Amendment of the US Application No. 09/891,010 filed September 22, 2003. It has been noted that claims 8-9, 23-24, have been cancelled and claims 32-35 added. Claims 1-7, 10-22, 25-35 are pending in the application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 10-22, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss (US Patent No. 6,165,071) in view of Ohno et al. (US Patent No. 5,609,525), and further in view of Walker et al. (US Patent No. 6,364,765).

As per claims 1, 10, 16, 25 Weiss discloses a gaming system allowing players to wager to play a game of chance. Weiss's system further allows player gaming to transpire over a series of sessions without the player losing credit for performances in earlier sessions, see abstract. In order to do that, Weiss allows players the opportunity to initiate play or discontinue play at their own whim as a function of time over a series of session, 1:59-67. Players can play the same game on one or several game machines without losing their game status. Players are provided with a memory card, which stores updates with respect to the progress of the players during the course of a series of plays. Weiss further discloses that when playing, should the player elect to quit or

pause, the memory card is updated and then returned to the player via slit 6. Although Weiss implies allowing players to continue play of the game beginning from the point at which the game was paused, he fails to clearly state it. Ohno, on the other hand, is being added to explicitly disclose a video game capable of saving game status in the game operation memory at the time of termination, 2:20-24. When the player wishes to play the same game at another time, the player is able to retrieve the game status from game memory and play the game at the point or scene where the game was terminated, 2:52-56. Although Ohno teaches a video gaming system as opposed to a wagering system, Weiss and Ohno both teach a system that encourages players to play frequently in the attempt to complete their gaming sessions. Weiss in view of Ohno both fail to disclose "storing the status of the paused or stopped game at a central database linked to and remote from the gaming machine and retrieving the status of the paused game from the central database". Walker teaches a gaming system including a central controller connected to a plurality of gaming devices, 1:58-60, 4:5-15. In reference to Figs 5-6, Walker's system is able to record player session status, 9:22-23, which can be retrieved at appropriate time, 12:49-67 using player identifier provided in the form of a player-tracking card, a pin number or a player identifier at time of registration, 11:7-13. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Weiss in view of Ohno and provide the networking environment as taught by Walker into the Weiss in view of Ohno type system in order to be able to store player gaming status in the central storage which would facilitate data transmission and save/protect gaming status data in the event a

player loses his tracking card. As per claims 2, 6, 13, Weiss discloses players being allowed to play the same on one or several machines without losing the game status, 2:52-53. In 4:65-67, 5:1-6, Weiss further states that upon the insertion of the memory card, which as stated above, stores the player gaming status, the machine prompts the player for a wager. This passage is being read as the player having to pay another wager every time a gaming session is being initiated, therefore receiving another wager to continue playing is obvious, 4:65-67, 5:1-14. As per claims 3-4, 17-19 Weiss further discloses the memory card storing updates with respect to progress, 2:44-47. As per claims 5, 11, 20, 21 Walker teaches storing and retrieving game outcome associated with player identifier as shown in Figs. 6a-6c, 9:50-67, 10:1-13. As per claims 7, 14, 22, Walker discloses personal identifier being provided using a keypad, 5:50-54, 11:29-31. As per claim 12, Walker teaches providing personal identifier to the central storage prior to retrieving the status of the paused game, 12:31-48. As per claim 15, it recites the limitations recited in claims 1, 5, 12 combined which are already dealt with above, therefore refer to the rejection of claims 1, 5, 12 above for rejection. In addition, claim 15 recites receiving the personal identifier at the same or another gaming machine. Walker teaches allowing players to use player identifier to retrieve gaming session, 11:20-32 and further allowing players to move from one machine to another, 12:12-16.

Allowable Subject Matter

3. Claims 26-35 are allowed.

Response to Arguments

4. Applicant's arguments filed on September 22, 2003 have been fully considered but they are not persuasive.

The Examiner notes that the Applicant attacks the individual reference to Weiss as opposed to Walker. One cannot show non-obviousness by attacking references individually where as here the rejections are based on combination of references. Applicants assert that Weiss cannot be combined with Ohno in view of Walker because Weiss is teaching away from Walker. In response to the Applicant's argument that there is no motivation to combine the references, the Examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya*, 184 USPQ 607 (CCPA 1975). However, there is no requirement that the references actually suggest expressly or in so many words, the changes or improvements that applicant has made. The test for combining references is what the references as a whole would have suggested to one versed in the art, rather than by their specific disclosures. *In re Sheckler*, 168 USPQ 716 (CCPA 1971). Weiss was cited to teach a gaming system where gaming sessions can be paused and retrieved at a later time and wherein player gaming status is stored on player-tracking card. Walker, on the other hand, is an analogous art cited to teach a gaming system comprising of a plurality of gaming devices connected to a central server in which player gaming status is stored, 1:58-60, 9:22-24. One embodiment of Walker can be configured like Weiss to provide players with player-tracking card. However, while

Art Unit: 3713

Weiss's player tracking card is configured to store gaming status, Walker's player tracking card is configured to include a player identifier, which can be used to retrieve player gaming status from the central server, 4:29-35. The Examiner notes that Walker went on to state that player identifiers can be provided to players in a number of ways such as in the form of a player tracking card, a pin number, or a unique player identifier generated at time of registration, 11:7-13 and that corresponding player identifier **or** (*emphasis added*) player-specified information such as name, address, and credit card number **may** (*emphasis added*) be included in the player tracking card, 4:29-35. As shown, although Walker is using a central server to store the gaming status, his system may be configured to *maintain the anonymity of the player* as well, using player identifier corresponding to player gaming status. Further, as shown, Weiss's player memory card can be modified and does not have to be eliminated, as argued by Applicants. The references to Weiss, Ohno and Walker are deemed to meet the cited limitations as claimed. Therefore the rejection stands. See rejection above.

Conclusion

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 3713

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yveste G. Cherubin whose telephone number is (703) 306-3027. The examiner can normally be reached on 9:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, T. Walberg can be reached on (703) 308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-930⁶~~A~~.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

December 10, 2003

ygc




Teresa Walberg
Supervisory Patent Examiner
Group 3700